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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SACRAMENTO**

**PEOPLE OF THE STATE OF CALIFORNIA,**  
  
**Plaintiff,**  
  
**v.**  
  
\_\_\_\_\_,  
  
**Defendant/Petitioner.**

No. \_\_\_\_\_  
  
**NOTICE OF MOTION AND  
MOTION TO VACATE JUDGMENT  
(PETITION FOR WRIT OF ERROR  
CORAM NOBIS)**  
  
**DATE:** \_\_\_\_\_  
**TIME:** \_\_\_\_\_  
**PLACE:** \_\_\_\_\_

TO THE DISTRICT ATTORNEY OF SACRAMENTO COUNTY AND/OR HER REPRESENTATIVE:

PLEASE TAKE NOTICE that on \_\_\_\_\_ (date), at the hour of \_\_\_\_\_, or as soon thereafter as counsel may be heard, in the courtroom of Department \_\_\_\_\_ of the above-titled court, the defendant/petitioner will move for an order vacating the judgment rendered against him/her on \_\_\_\_\_ (date of conviction) in Department \_\_\_\_\_ of the above-titled court.

The motion will be made on the ground that an error of fact existed before judgment was rendered, which could not have been discovered in the exercise of reasonable diligence, and which could have prevented rendition of the judgment.

The motion will be based on this notice of motion, on the attached declaration and memorandum of points and authorities served and filed herewith, on all the papers and records on file in this action, on such supplemental declarations and memoranda of points and authorities as

1 may hereafter be filed with the court, on all the papers and records on file in this action, and on  
2 such oral and documentary evidence as may be presented at the hearing of the motion.

3 DATED: \_\_\_\_\_

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6 DEFENDANT/PETITIONER  
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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SACRAMENTO

PEOPLE OF THE STATE OF CALIFORNIA,  
  
Plaintiff,  
  
v.  
  
\_\_\_\_\_,  
  
Defendant/Petitioner.

No. \_\_\_\_\_

POINTS AND AUTHORITIES IN  
SUPPORT OF MOTION TO  
VACATE JUDGMENT/PETITION  
FOR WRIT OF ERROR CORAM  
NOBIS

Defendant/Petitioner submits the following points and authorities in support of the motion to vacate the judgment rendered against defendant in the above-entitled action:

**I.**

**THIS COURT MUST VACATE DEFENDANT/PETIONER S PREVIOUSLY  
RENDERED JUDGMENT BECAUSE AN ERROR OF FACT EXISTS  
WHICH COULD NOT HAVE BEEN DISCOVERED IN THE EXERCISE  
OF REASONABLE DILIGENCE AND WHICH WOULD HAVE  
PREVENTED RENDITION OF THE JUDGMENT**

**A. Introduction**

A common law motion to vacate judgment, the Writ of Error Coram Nobis, will properly issue when (1) a fact exists which would have prevented rendition of the judgment, (2) this fact does not go to the merits of the factual issues determined, and (3) upon discovering the fact, petitioner acted with due diligence in bringing a motion to vacate the judgment. (People v.

1 Shipman (1965) 62 Cal.2d 226, 230; People v. Castaneda (1995) 37 Cal.App.4th 1612, 1618;  
2 People v. Soriano (1987) 194 Cal.App.3d 1470, 1474; People v. Trantow (1986) 178 Cal.App.3d  
3 842, 845.)

4 In the present case, defendant/petitioner asserts that had the inadequate signage been  
5 brought to light prior to his/her judgment of conviction, this fact would have prevented rendition of  
6 the judgment. Defendant/petitioner further argues that the fact that the signage was inadequate did  
7 not go to the merits of the factual issues determined in the case, which was simply whether or not  
8 defendant/petitioner ran a red light. Finally, defendant/petitioner submits that he has acted with due  
9 diligence in bringing this motion as defendant/petitioner has filed this motion as soon as he was  
10 notified that this mechanism for relief was available. Notably, the Sacramento County District  
11 Attorney does not oppose this motion. (Exhibit A, Sac. Dist. Atty s Press Release, Dec. 30, 1999,  
12 ¶ 2.) As such, the requirements for a common law motion to vacate judgment are met and the  
13 judgment of conviction must be set aside.

14 **B. The Fact That the Signage Was Inadequate Would Have Prevented**  
15 **Rendition of the Judgment Against Defendant/Petitioner**

16 Since July 16, 1999, the City of Sacramento has issued citations to motorists who ran red  
17 lights at five intersections monitored by automatic traffic enforcement systems. (Exhibit A, supra,  
18 ¶ 1.) The use of these systems is authorized by Vehicle Code section 21455.5, which provides that  
19 the systems can be utilized if the system is identified by signs, clearly indicating the system s  
20 presence, or if signs are posted at all major entrances to the city. (Veh. Code, § 21455.5.) The city  
21 initially chose the latter of the two options. (Exhibit B, Furillo, 2,000 Red-Light Tickets May Be  
22 Negated, Sac. Bee (Dec. 18, 1999) p. B1.)

23 In defendant/petitioner s case, inadequate signage has been demonstrated. (Ibid.) The city  
24 failed to post signs at the city limits at Fair Oaks Boulevard and Howe Avenue, a major entrance to  
25 the city. (Ibid.) Indeed, the Sacramento County District Attorney s Office met with city officials  
26 and concluded that the signage was insufficient before December 11, 1999. (Exhibit A, supra, ¶  
27 1.) The fact that the inadequate signage failed to meet the requirements of Vehicle Code section  
28

1 21455.5 would have precluded rendition of the judgment in defendant/petitioner s case.

2 Defendant/Petitioner has satisfied the first criteria for vacating the judgment.

3 **C. The Inadequate Signage Does Not Go to the Merits of the Factual Issues**  
4 **Previously Determined by the Court**

5 In defendant/petitioner s case, the sole issue adjudicated was whether he/she ran a red light.  
6 The adequacy of the signage was not determined by the trial court. Consequently,  
7 defendant/petitioner has satisfied the second criteria for granting the motion to vacate the  
8 judgment.

9 **D. Defendant/Petitioner Acted With Due Diligence in Bringing a Motion**  
10 **to Vacate the Judgment as Soon as the Inadequate Signage Was**  
11 **Discovered**

12 Defendant/Petitioner first became aware of the inadequate signage on or shortly after  
13 December 18, 1999, when the Sacramento Bee published an article about a successful challenge to  
14 the adequacy of the signage. (Exhibit B, Furillo, 2,000 Red-Light Tickets May Be Negated, Sac.  
15 Bee (Dec. 18, 1999) p. B1.)

16 Any argument that defendant/petitioner could have discovered the inadequate signage prior  
17 to December of 1999 and challenged it prior to his/her conviction is without merit. Such an  
18 argument imposes a duty on defendants, unschooled in the law, to first interpret the applicable  
19 statute and then survey the city s intersections and major entrances and determine whether or not  
20 the existing signage is appropriate. Due diligence does not require of average citizens what  
21 professionals grapple with on a daily basis.

22 In September of 1999, a motorist challenged the existing signage on the basis that it was  
23 insufficient. (Exhibit C, City of Sac., Press Release, Dec. 14, 1999.) At that time, a traffic  
24 engineer for the City of Sacramento issued a statement certifying that signs had been placed at  
25 certain major entrances to the city. (Exhibit D, Certification Statement by Traffic Engineer,  
26 Sept. 23, 1999.) This certification statement is instrumental in two ways. First, it demonstrates  
27 that even after red-light ticketing program had started, the city was still determining where signs  
28 should be placed. (See Exhibit D, supra, p. 2 [certifying that six signs were installed after the July  
16, 1999, commencement of ticket issuing].) The city, with all of its expertise, was still

1 ascertaining the appropriate placement of signage even after the implementation of the program.  
2 Secondly, the certification statement demonstrates that the city failed to place a sign at Fair Oaks  
3 Boulevard and Howe Avenue, arguably one of the most traveled entrances to the city. The city  
4 employs a traffic engineer to assist in the appropriate placement of signage. Average citizens do  
5 not have such resources at their fingertips and to expect them to have discovered the inadequate  
6 signage prior to the December court ruling goes beyond requiring due diligence to requiring a level  
7 of expertise not even demonstrated by learned city officials.

8 By bringing this motion to vacate judgment as soon as practical after he/she became aware  
9 of the inadequate signage, defendant/petitioner has exercised due diligence. Thus, defendant has  
10 met the third criteria for his/her motion to vacate judgment to issue.

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**CONCLUSION**

As defendant/petitioner has met the criteria for issuance of the writ of error coram nobis,  
this Court should grant this motion and vacate his/her judgment of conviction.

DATED: \_\_\_\_\_ Respectfully submitted,  
  
\_\_\_\_\_  
DEFENDANT/PETITIONER